

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING
JULY 22, 2009
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on July 22, 2009, at Little America Hotel in Flagstaff, AZ.

Members Present:

Mr. Joseph Duarte, Chairman
Dr. Scott Decker
Detective Lee Ann Dobbertin
Chief Patricia Huntsman
Director Roger Vanderpool, followed by
Deputy Director Pennie Gillette-Stroud, representing Director Roger Vanderpool
Ms. Wendy Larsen
Mr. Gerald Richard, representing Attorney General Terry Goddard
Director Charles Ryan
Sheriff Tom Sheahan
Director Jerry Sheridan
Sergeant Robert Thompson

Members Absent:

Sheriff John Armer

Staff in Attendance:

Harry Atkins
Ted Brandon
Dan Ciernia
Curt Milam
Jim DeLung
Marie Dryer
Deb Howard
Steve Jacobs
Lynn Larson
Lyle Mann
Gary Maschner
Paul Orfe
Sandy Sierra
Rick Watling

Assistant Attorney General

Nancy Beck
Diana Stabler

A. CALL TO ORDER

Chairman Duarte called the meeting to order at 2:01 p.m.

B. INTRODUCTIONS, RECOGNITIONS AND AWARDS

Executive Director Lyle Mann presented Mr. Gerald Richard with a plaque in appreciation for his service as chair of the AZ POST Rules Advisory Group from January 2003 until April 2008. He also presented a plaque to Debbie Howard, who retired as a lieutenant with the AZ Department of Public Safety, in appreciation for her many hours of volunteer service for the AZ Center for Leadership Excellence.

Sgt. Jim DeLung of the AZ Center for Leadership Excellence presented a plaque to Jim Warriner, who also retired as a lieutenant with the AZ Department of Public Safety, in appreciation for his assistance in instructing for the AZ Center for Leadership Excellence.

C. CONSENT AGENDA

The Consent Agenda was approved unanimously, motion made by Sheriff Sheahan, seconded by Chief Huntsman.

1. Minutes of the Regular Board meeting, held on May 20, 2009, were approved as written.

Minutes of the Charging Board meeting, held on June 17, 2009, were approved as written.

3. The next scheduled Charging Board meeting is Wednesday, August 19, 2009, at 10:00 a.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

The next scheduled Regular Board meeting is Wednesday, September 16, 2009, at 2:00 p.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

4. Ministerial Actions:
 - a. Certification Waivers: LIST ATTACHED TO AGENDA PACKET.
 - b. Instructor Certification Renewals: LIST ATTACHED TO AGENDA PACKET. Training Program Confirmations: LIST ATTACHED TO AGENDA PACKET.

5. Decertification Case Status Report - As of May 31, 2009, the Compliance and Standards Unit had a caseload of 118 active cases. Thirteen cases are ready for initial presentation; forty-two cases need further investigation; nine cases are pending service of or response to a Notice of Complaint or Decision; eight cases are pending a hearing; three cases are ready for final action, and forty-three cases are waiting for outside action, i.e., a criminal trial or civil service hearing.

6. Income and Expense Statement – May 2009

Funds as of March 1, 2009	\$ 894,825.40
CJEF Revenue	781,032.91
Expenditures/Encumbrances	(308,153.95)
Balance for March 31, 2009	\$1,367,704.36

D. REGULAR AGENDA

1. Training Audit Deficiencies for White Mountain Apache Wildlife & Outdoor Recreation Agency

Under Arizona Administrative Code, *R13-4-109.01 Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies*, "The Board shall restrict certified status if a peace officer fails to satisfy the requirements of R13-4-111." The restriction shall remain in effect until the training or qualification requirement is met and written verification is provided to the Board.

The White Mountain Apache Wildlife & Outdoor Recreation Agency has one officer deficient in firearms training. As such, the Board should restrict certification until the deficiency has been taken care of.

Director Sheridan moved to restrict the peace officer certification of Officer David Kitcheyan for failure to complete annual firearms qualification and judgment shoot. The restriction shall consist of Officer Kitcheyan not being permitted to carry or use a firearm while on duty. The restriction shall remain in effect until the Board's staff has received written verification that the requirements have been met, seconded by Director Vanderpool, motion carried unanimously.

2. Courtesy Letters – Notice to Officers

Executive Director Mann informed the Board that currently there is no legal requirement for AZ POST to notify a former officer if possible disciplinary action is being considered against his/her certification. Staff is proposing four form letters to assist former officers by explaining the process and important timeframes involved when AZ POST receives a notice of termination from an agency.

A couple of suggestions were provided and the Board's feedback was very positive regarding these letters.

3. Possibility of Increased Board Discipline for DUI

This is the third time in recent years that the topic of off-duty, private vehicle DUIs has been addressed by the Board. Recent discussions have shown that the Board is concerned about this matter and would like it addressed.

The following agency representatives addressed the Board and all were in favor of the Board letting the agency head impose discipline in these cases at their discretion:

Sheriff Paul Babeau – Pinal County Sheriff's Office
Chief Deputy Larry Stevens – Oro Valley Police Department
Chief Sherry Kiyler – Chandler Police Department
Lt. Deanna Coultas – Pima County Sheriff's Department
Capt. Chris Ratke – Pima County Sheriff's Department

Deputy Director Pennie Gillette-Stroud of the AZ Department of Public Safety spoke in favor of the Board addressing this matter by initiating proceedings in these cases.

Chief Robert DeVries, Chairman of the AZ POST Rules Advisory Group, stated the Group has addressed this issue numerous times. Two surveys have been done in recent years and both surveys showed the majority of the agencies would prefer to address this matter at the agency level.

Deputy Director Gillette-Stroud took the place of Director Vanderpool who had to leave to attend another meeting.

The Board, by a vote of 8-3, voted to not change the manner in which these cases are handled. The Board would like all officers and agency heads to be aware that the Board does have the authority and discretion to impose sanctions against peace officer certification for driving under the influence and would like to send the message that they are looking at these cases with a critical eye to see if agency discipline is effective.

E. LEGISLATIVE UPDATE

Director Mann informed the Board on current bills before the legislature.

F. SUMMARY OF CURRENT EVENTS

Director Mann informed the Board that the Video Production Unit just released the DVD titled Children of Incarcerated Parents. The next DVD to be released will be Organized Retail Crime.

G. COMMITTEE UPDATE

The Rules Advisory Group did not meet today due the governor's moratorium on rule making activities for all state agencies. As such, the Group will not meet in Laughlin in September.

H. REPORTS

1. Basic Training

ALEA – Commander McGuffin reported they currently have one class with 10 recruits representing 8 agencies. They also have a fire arson investigator's academy with 12 recruits that will graduate July 31. The July and August classes have been canceled. The next class will start September 21; currently they have 17 reservations for this class.

SALETC – Lt. Lane provided a written report that states they had a class graduate on May 7th with 36 recruits representing 10 agencies. The March 30th class has 15 recruits representing 8 agencies. Their next class will start July 7th and they have 67 reservations representing 12 agencies.

WALETA – Dan Doyle reported they will start a class on August 9. They have 15 reservations for that class. They run two classes per year. They are in the process of developing a Dispatcher's Academy.

2. Department of Corrections – Director Ryan stated they currently have 4 classes in progress. They have started their first 7-week academy. They have a 3.5-4% vacancy rate due to the budget cuts.
3. Center for Leadership Excellence – Jim DeLung reported the Center currently has 356 current or graduated students. Class #12 will start August 18 with 36 students.

I. FINAL ACTION CASES:Case #1 – David Chaney – Peoria Police Department

The Board considered comments from Assistant A. G. Diana Stabler. Chief Huntsman made a motion to adopt the Consent Agreement Order and Decision for voluntary relinquishment of peace officer certification, seconded by Detective Dobbartin, motion carried unanimously.

Case #2 – Chong S. Kim – Scottsdale Police Department

The Board considered comments from Assistant A. G. Diana Stabler. Mr. Richard made a motion to adopt the Consent Agreement Order and Decision for voluntary relinquishment of peace officer certification, seconded by Director Sheridan, motion carried unanimously.

Case #3 – Alphonso Ray Duarte – Ft. Mohave Tribal Police Department

The Board considered comments from Assistant A. G. Diana Stabler. Director Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Deputy Director Gillette-Stroud, motion carried unanimously.

Case #4 – David Graf – Tempe Police Department

The Board considered comments from Assistant A. G. Diana Stabler. Chief Huntsman made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Mr. Richard, motion carried unanimously.

Case #5 – George A. Aguilera – AZ Department of Public Safety

Mr. Duarte and Deputy Director Gillette-Stroud recused themselves from this case. Director Sheridan was acting chair for this case. The Board considered comments from Assistant A. G. Diana Stabler. Dr. Decker made a motion to adopt the Findings of Fact and Conclusions of Law and impose the mandatory revocation of revoke peace officer certification, seconded by Chief Huntsman, motion carried unanimously.

J. NEW CHARGING CASES:Case #1 – Sarah J. Habaadih – Navajo Department of Public Safety

Director Sheridan made a motion to **Initiate Proceedings**, seconded by Chief Huntsman, motion carried unanimously.

Case #2 – Johnnie P. Peshlakai – Navajo Department of Public Safety

Director Sheridan made a motion to **Initiate Proceedings**, seconded by Chief Huntsman, motion carried unanimously.

Case #3 – Samuel L. Lopez – Pascua Yaqui Tribal Police Department

Dr. Decker made a motion to **Initiate Proceedings**, seconded by Mr. Richard, motion carried unanimously.

Case #4 – Tristan J. Perez – Colorado River Indian Tribal Police Department

Chief Huntsman made a motion to **Initiate Proceedings**, seconded by Director Sheridan, motion carried unanimously.

Case #5 – Jessica O. Ruiz – Glendale Police Department

Director Sheridan made a motion to close this case with **No Action with Agency Discretion**, seconded by Chief Huntsman, motion carried unanimously.

Case #6 – Ronald J. Ryan – Pinal County Sheriff's Office

Mr. Richard made a motion to **Initiate Proceedings**, seconded by Director Ryan, motion carried unanimously.

Case #7 – Robert D. Vik – Mesa Police Department

Director Sheridan made a motion to request that staff **Research Further**, seconded by Chief Huntsman, motion carried unanimously.

K. CALL TO THE PUBLIC

No one wished to address the Board during the Call to Public.

L. ADJOURN

Chairman Duarte adjourned the meeting at 4:00 p.m.